

FILED

MAY 19 2006

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

KEVIN KEITH FURLONG,

Defendant - Appellant.

No. 04-30183

D.C. No. CR-03-00020-RFC

MEMORANDUM^{*}

Appeal from the United States District Court
for the District of Montana
Richard F. Cebull, District Judge, Presiding

Submitted May 15, 2006^{**}

Before: B. FLETCHER, TROTT and CALLAHAN, Circuit Judges.

Kevin Keith Furlong appeals from his conviction by a jury and 150-month sentence for two counts of bank robbery in violation of 18 U.S.C. § 2113(a). We

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

have jurisdiction pursuant to 28 U.S.C. § 1291. We affirm the conviction, and we vacate and remand the sentence.

Furlong contends that the district court allowed him to proceed pro se in violation of his right to counsel under the Sixth Amendment. This contention is unavailing. At his arraignment, Furlong asserted his right to proceed pro se. At the *Faretta* hearing, the court advised Furlong of the dangers and disadvantages of self representation and emphasized that the decision must be knowing, voluntary and intelligent. *See Faretta v. California*, 422 U.S. 806, 819-20 (1975); *United States v. Kaczynski*, 239 F.3d 1108, 1116 (9th Cir. 2001). At each subsequent instance up to trial in which the court addressed the issue of self representation, Furlong unequivocally stated that he wished to proceed pro se. Accordingly, we reject this contention.

We remand the sentence for further proceedings consistent with *United States v. Ameline*, 409 F.3d 1073, 1084-85 (9th Cir. 2005) (en banc). *See United States v. Kortgaard*, 425 F.3d 602, 607 (9th Cir. 2005).

Robin Hammond's motion to withdraw as counsel is **DENIED** without prejudice to renewing the motion in the district court.

CONVICTION AFFIRMED; SENTENCE REMANDED.